

REMARKS

Claims 23-30 were considered by the Examiner. Claims 23-30 stand rejected by the Examiner. In this response, claims 25-27 and 30 have been cancelled. Therefore, claims 23, 24, 28 and 30 are pending.

Rejections under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement

Claims 23-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 23 and 29

Examiner states that the specification does not disclose the claimed limitation of status identifiers of “available” and “unavailable”.

Availability status is illustrated in the drawings, for example, in Figure 3A at reference numeral 330. Availability status is discussed in the specification, for example, in paragraph 69. In paragraph 69, the specification discloses that availability status options include “long wait”, “short wait”, and “available now”.

Unavailability status is discussed in the specification, for example, in paragraph 70. In paragraph 70, the specification discloses that the DVDs awaiting release list 306 contains an ordered list of DVD titles that a user has selected to place on the rental queue that are *not yet available* and are awaiting release. DVD titles are placed at the bottom of the queue list 304 when they become available.

Examiner also considers to be new matter the recitation that the optimized purchase is generated by searching all of the user’s data queue structures to identify the frequency of appearance of the disk identifier. This recitation is supported, for example, in paragraph 51. In

paragraph 51, the specification recites that inventory use is evaluated for the particular DVD title at issue. The current rental pattern of the DVD title across all users is evaluated. As recited in the last sentence of paragraph 51, the output of this evaluation is the peak number of copies of the DVD checked out and required to be shipped from user queues at a given time.

Accordingly, Applicant respectfully requests the withdrawal of the rejections of claims 23 and 29.

Claim 24

Examiner states that the specification as originally filed did not disclose the recitation of sending a query to the user determining whether the user wishes to receive additional packaging associated with the disk identifier. This recitation is supported, for example, in Figure 4 and paragraph 68. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 24.

Claims 25-27

Claims 25-27 have been cancelled.

Claim 28

Claim 28 is dependent on claim 23. Therefore, it is respectfully submitted that claim 28 is patentable at least for the reasons stated above with respect to the patentability of claim 23. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 28.

Claim 30

Claim 30 has been cancelled.

Rejections under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement

Claims 23-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

Claims 23 and 29

Examiner states that for claim 23, it is not clear how the optimized purchase price is being generated after the frequency of the occurrence is identified. Applicant presumes that the Examiner has the same comment with respect to claim 29.

Generation of the optimized purchase price is enabled, for example, in paragraphs 40, 50-57 and 63. These examples do not limit the scope of the claim. In paragraph 50, the specification describes that the web site may begin with a baseline used price. In paragraph 51, the specification describes that inventory use is evaluated. The rental pattern, both historical and current, of the DVD title across all users is evaluated. One output of the valuation is the peak number of copies of the DVD title checked out and required to be shipped from user queues. In paragraph 52 the specification describes, as an example, that an excess capacity is determined when the total number of copies of the DVD contained in the inventory resources exceeds inventory use. In one example of the invention described in paragraph 53, if an excess capacity condition exists the baseline used price is reduced by 10 to 40 percent. The amount of reduction may be proportional to the extent of excess capacity. Applicant respectfully asserts that this illustrative example is sufficient to enable one of ordinary skill in the art to calculate an optimized purchase price after determining the frequency of occurrence of a DVD title in the user queues.

Accordingly, Applicant respectfully requests the withdrawal of the rejections of claims 23 and 29.

Claim 24

Claim 24 is dependent on claim 23. Therefore, it is respectfully submitted that claim 24 is patentable at least for the reasons stated above with respect to the patentability of claim 23. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 24.

Claims 25-27

Claims 25-27 have been cancelled.

Claim 28

Claim 28 is dependent on claim 23. Therefore, it is respectfully submitted that claim 28 is patentable at least for the reasons stated above with respect to the patentability of claim 23. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 28.

Claim 30

Claim 30 has been cancelled.

Rejections under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

Claims 23-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 23 and 29

Examiner states the specification makes no mention of an available status and an unavailable status.

Availability status is illustrated in the drawings, for example, in Figure 3A at reference numeral 330. Availability status is discussed in the specification, for example, in paragraph 69. In paragraph 69, the specification discloses that availability status options include “long wait”, “short wait”, and “available now”.

Unavailability status is discussed in the specification, for example, in paragraph 70. In paragraph 70, the specification discloses that the DVDs awaiting release list 306 contains an ordered list of DVD titles that a user has selected to place on the rental queue that are *not yet available* and are awaiting release. DVD titles are placed at the bottom of the queue list 304 when they become available.

Accordingly, Applicant respectfully requests the withdrawal of the rejections of claims 23 and 29.

Claims 24 and 28

Claims 24 and 28 are dependent on claim 23. Therefore, it is respectfully submitted that claims 24 and 28 is patentable at least for the reasons stated above with respect to the patentability of claim 23. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 24 and 28.

Claims 25-27

Claims 25-27 have been cancelled.

Claim 30

Claim 30 has been cancelled.

CONCLUSION

In view of the above amendments and remarks, allowance of the pending claims is respectfully requested.

Respectfully submitted,

Dated: September 12, 2005

By: 